

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Wednesday, January 2, 2001

Division One

**A085440 -- The People v. Arvind Balu.**

By the Court: The petition for rehearing is denied. Strankman, P.J.

**A093247 -- Ricardo Leyva v. N. Fry.**

By the Court: Appellant having failed to procure the record on appeal within the time allowed or within any valid extensions of time, and having failed to apply for relief from default, the appeal filed on November 15, 2000 is dismissed. (See Cal. Rules of Court, rule10(c).) Strankman, P.J.

Division Three

**A086051 -- Dorene L. Musilli v. Alioto & Alioto et al.**

Order Modifying Opinion and Denying Rehearing. By the Court: It is ordered that the opinion filed herein on November 30, 2000, be modified as follows: (See Order.) The petition for rehearing is denied. There is no change in the judgment. McGuiness, P.J. (Not for Publication.)

Wednesday, January 3, 2001

Division One

**A087167 - Jeffrey H. v. Imai, Tadlock & Keeney et al.**

Order Modifying Opinion. The Court: It is ordered that the opinion filed herein on December 8, 2000, be modified. (See order.) There is no change in the judgment. Strankman, P.J. (Certified for Publication.)

Division Two

**A086586 -- The People v. Robert J. Ellis.**

The judgment of the trial court is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A089728 -- The People v. Steve Donald Nystrom.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

**A088103 -- The People v. Ernie Wally Rogers, Jr.**

The judgment is reversed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Wednesday, January 3, 2001 (continued)

**A088711 -- Mason Todd, et al. v. Exxon Corporation.**

We reverse the determination of settlement credits. The judgment is otherwise affirmed. We remand for further proceedings consistent with this opinion. The parties are to bear their own costs for the appeal and cross-appeal. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Four

**A089196 -- The People v. Cary Verse.**

The judgment is affirmed. Woolard, J.\* We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Five

**A091494 -- Kenneth Brooks. v. Daniel J. Healy.**

The order dismissing the complaint under section 425.16 is affirmed. The case is remanded to the trial court so it can determine fees to which Healy is entitled as a result of his counsel's efforts on appeal. (See *Evans v. Unkow, supra*, 38 Cal.App.4th at pp. 1499-1500.) Jones, P.J. We Concur: Stevens, J., Richman, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A091193 -- Vicente Fuentes v. Albert Livingston.**

The judgment of the trial court is affirmed. Stevens, J. We Concur: Jones, P.J., Swager, J.\* (Not for Publication.)

\* Associate Justice of the Court of Appeal, First Appellate District, Division One, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, January 4 2001

Division Two

**A092813 -- American Online, Inc., et al. v. The Superior Court of Alameda County; Al Mendoza, Jr., et al., R. P.I.**

By the Court: The order to show cause issued by this court on November 23, 2000, is discharged as improvidently granted and the petition for writ of mandate/prohibition is denied. Haerle, Acting P. J.

**A088410 -- The People v. Arthur H. Boessenkool.**

The judgment is reversed and the matter remanded for resentencing, consistent with the views expressed herein. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A093506 -- Thomas J. Mellon, Jr. v. The Superior Court of San Francisco; DL Mark, R.P.I.**

By the Court: The petition for a writ of mandate is denied on the grounds the petition does not address the merits of the disqualification order being challenged. The request for leave to file an amended petition at a future date is denied. The issue of whether petitioner even has standing to seek writ review of the disqualification order is currently pending before the California Supreme Court. (See *Curle v. Superior Court* (1999) 72 Cal.App.4th 543, review granted Aug. 11, 1999, S080322.) Kline, P.J.

**A089640 -- In re Derek R., a Person Coming Under the Juvenile Court Law.**

The judgment is reversed as to the finding that Derek had been detained. The judgment is otherwise affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Thursday, January 4, 2001 (continued)

Division Five

**A090503 -- In re Tyrell J., a Person Coming Under the Juvenile Court Law.**

The order is affirmed. Richman, J.\* We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A091071 -- In re Edson S., a Person Coming Under the Juvenile Court Law.**

The order appealed from is affirmed. Richman, J.\* We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Friday, January 5, 2001

Division One

**A090881 -- The People v. Brian Dominic Colley.**

Order Modifying Opinion and Denying Rehearing It is ordered that the opinion filed herein on December 12, 2000, be modified as follows: (See order.) Appellant's petition for rehearing is denied. There is no change in judgment. Strankman, P.J. (Not for Publication.)

**A088378 -- William Obermayer et al. v. Midpeninsula Regional Open Space District.**

The judgment is affirmed. Marchiano, J. We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

Division Two

**A089836 -- Gail Grashius v. Clifford Burnham et al.**

This appeal is stayed for a period of 30 days after this order is filed. If at the expiration of this period the condition for lifting the stay is not satisfied, the appeal shall be dismissed forthwith. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

**A088483 -- Wayne Jackson v. Department of Justice Division of Criminal Justice Information Services.**

For the foregoing reasons, the judgment below is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Certified for Publication.)

**A093501 -- Derek R. v. Humboldt County Department of Social Services et al.**

The opinion in Derek R. v. Humboldt County Department Social Services et al., in A089640, having been filed, the petition for writ of supersedeas/stay is denied. Kline, P.J.

Friday, January 5, 2001

Division Three

**A090401 -- The People v. Scott Edward McMahon.**

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

Division Four

**A088533 -- In re Starla G. et al., Persons Coming Under the Juvenile Court Law.**

The orders are affirmed. Hanlon, P.J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A090815 -- In re Darryl Lynn J., a Person Coming Under the Juvenile Court Law.**

The order of the juvenile court is affirmed. Stevens, J. We Concur: Jones, P.J., Richman, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, January 8, 2001

Division One

**A090559 -- The People v. Andres Ortiz Morales.**

The judgment is affirmed. Marchiano, J. We Concur: Strankman, P.J.,  
Swager, J. (Not for Publication.)



Monday, January 8, 2001

Division One

**A090580 -- Mark S. Davis v. Kathleen M. Wolcott.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

**A091849 -- The People v. Harold M. Grice.**

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

**A089570 -- Giampiero Mancinelli et al. v. Creola Love.**

Order Modyifying Opinion and Denying Rehearing. By the Court: It is ordered that the unpublished opinion filed on December 7, 2000, be modified as follows: (See order.)

In all other respects the opinion remains the same. This modification does not effect a change in judgment. The petition for rehearing is denied. The request for publication is also denied since it does not comply with rule 978(a) of the California Rules of Court. Strankman, P.J. (Not for Publication.)

**A092634 -- Jimmie L. Zupanc v. Linda M. Phillips.**

By the Court: Appellant having failed to file a brief after notice given under rule 17(a) of the California Rules of Court, the appeal is dismissed. Strankman, P.J.

Division Two

**A093527 -- In re Joseph Alldredge, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

**A093525 -- Mary Alexander v. The Superior Court of Alameda County; June Nelson, R.P.I.**

By the Court: The petition for writ of mandate/prohibition/stay is denied. Kline, P.J.

Monday, January 8, 2001 (continued)

**A093517 -- Frank Bacon v. The Superior Court of Los Angeles County; The People of the State of California, R.P.I.**

By the Court: The petition for writ of mandate/prohibition/stay is denied. Petitioner should seek relief, if any, in the Second District Court of Appeal in Los Angeles. Kline, P.J.

**A093543 -- Chw-West Bay, Inc. et al. v. The Superior Court of San Francisco County; Natha M. Smith et al., R.P.I.**

By the Court: The petition for writ of mandate/prohibition/stay is denied. Kline, P.J.

**A087084 -- The People v. Donald Ray Duke.  
A088641; A090935; A090495 -- In re Donald Ray Duke,  
on Habeas Corpus.**

By the Court: The petition for rehearing is granted and the clerk of this court shall concurrently file the attached opinion. Kline, P.J.

**A093547 -- James S. Fetherston et al. v. The Superior Court of Napa County; Ronald A. Unkefer et al., R.P.I.**

By the Court: The petition for writ of mandate/stay is denied without prejudice as premature in that no written order has been signed by the trial court in compliance with Code of Civil Procedure section 437c subdivision (g). (See *Tera Pharmaceuticals, Inc. v. Superior Court* (1985) 170 Cal.App.3d 530, 532; *Continental Insurance Co. v. Superior Court* (1985) 165 Cal.App.3d 1069, 1071-1072; *Young v. Superior Court* (1986) 179 Cal.App.3d 28.) Kline, P.J.

**A088897 -- Suci Samman v. California Fair Plan Association.**

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Monday, January 8, 2001

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Swager, J, and Marchiano, J.; N. Millner, Deputy Clerk; and security officer R. Karanja.

A090469 Dorothea M. Dorman,

v.

John McLain, et al.

Cause called and argued by Dorothea Dorman, appellant in pro per, and John A. Holdredge, counsel for respondents. Cause ordered submitted.

At this point in the proceedings, Presiding Justice Strankman joined the bench and presided over the remainder of the session. Justice Marchiano left the bench.

A089400/ Arthur L. Lantz, Jr.,

A090439 v.

American Home Assurance Company, et al.

Cause called and argued by Herbert W. Yanowitz, counsel for appellant, and Katharine Demgen, counsel for respondents. Counsel was given until 12 noon on Friday, January 12, 2001 to submit a 3-page letter regarding a new California Supreme Court decision. Cause ordered deferred until that time.

Court recessed until 1:30 p.m.

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Monday, January 8, 2001

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Strankman, P.J., Stein, J., and Marchiano, J.; B. Robbins, Deputy Clerk; and security officer L. Cabral.

- A088854      The People,  
                  v.  
                  Jamecas Ketí Farr.  
Cause called and argued by Richard Such, counsel for appellant, and Michael Bannister, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A089817      O.K. Investments, Inc.,  
                  v.  
                  Marco Polo Garbarino, et al.  
Cause called and argued by Tommy Ryan Lee, counsel for appellant, and Daniel P. McLoughlin, counsel for respondents. Cause ordered submitted.
- A087257      The People,  
                  v.  
                  Thomas James Mineo.  
Cause called. There was no appearance on behalf of appellant. Deputy Attorney General Dorian Jung submitted on the briefs on behalf of respondent. Cause ordered submitted.
- At this point in the proceedings, Justice Stein left the bench and Justice Swager joined the bench.
- A088025      Grace V. Reairdon, et al.,  
                  v.  
                  Transamerica Homefirst, Inc., et al.  
Cause called and argued by Steven L. Mayer, counsel for appellants, and Herbert W. Yanowitz, counsel for respondents. Cause ordered submitted.

A091371      Giuseppe Battistini,  
                         v.  
                         Alan Banker, et al.  
Cause called and argued by Brian F. Connors, counsel for appellant, and Aaron M. Greenberg, counsel for respondents. Cause ordered submitted.

A089202      General Motors Corporation,  
                         v.  
                         City and County of San Francisco.  
Cause called and argued by Joseph Quinn, Deputy City Attorney, counsel for appellant, and Charles R. Ajalat, counsel for respondent. Cause ordered submitted.

Court recessed until Tuesday, January 9, 2001 at 9:00 a.m.

Monday, January 8, 2001 (continued)

Division Four

**A080499 -- Peter Bullock et al. v. Maryland Casualty Company.**

**A081283 -- Peter Bullock et al v. American Guaranty & Liability Insurance Company et al.**

**A081878 -- Peter Bullock et al. v. Fireman's Fund Insurance Company.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Hanlon, P.J.\* (Certified for Partial Publication.)

\*Retired Associate Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A085000 -- George W. Eckert et al. v. Bay Area Cellular Telephone Company.**

The judgment of the superior court is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Woolard, J.\* (Certified for Partial Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A088477 -- Foreign Auto Center v. Department of Consumer Affairs.**

The judgment is affirmed. with costs to respondent. Hanlon, P.J.\* We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

\*Retired Associate Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A089671 -- In re Kenneth M., a Person Coming Under the Juvenile Court Law.**

The orders are affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Woolard, J.\* (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, January 8, 2001 (continued)

**A089894 -- The People v. Robert Wayne Tuell.**

The judgment is modified by striking the language ordering the sentence to run consecutively to the parole violation term. The trial court is directed to amend the abstract of judgment in accordance with this opinion and to forward a copy to the Department of Corrections. In all other respects, the judgment is affirmed. Sepulveda, J. We Concur: Reardon, J., Woolard, J.\* (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A090276 -- In re Fernando V., a Person Coming Under the Juvenile Court Law.**

The dispositional order is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A086501 -- The People v. Nicholas Zaika.**

Order Modifying Opinion. The Court: It is ordered that the opinion filed herein on December 21, 2000, be modified as follows: (See order.) Appellant's petition for rehearing is denied. Sepulveda, Acting P.J. (Not for Publication.)

Division Five

**A088158 -- The People v. Antonio Lashawn Johnson.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Richman, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, January 9, 2001

Division One

**A088560 -- The People v. George Dallas Hill.**

The judgment should be affirmed. Stein, J. We Concur: Strankman, P.J., Swager, J. (Certified for Publication.)

**A092252 --The People v. Karl Raymond Shipp.**

By the Court: Appellant having failed to file a brief after notice given under rule 17(a) of the California Rules of Court, the appeal is dismissed. Strankman, P.J.



MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Tuesday, January 9, 2001

The Court reconvened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J, Swager, J., and Marchiano, J.; N. Millner, Deputy Clerk; and CHP Officer T. Tam, Bailiff.

- A089755      Mark D. Comings,  
                  v.  
                  James R. Rose, et al.  
Cause called and argued by Daniel C. Payne, Jr., counsel for appellant, and James Rose, respondent in pro per. James Jones, counsel for respondent Long, appeared but did not argue. Cause ordered submitted.
- A089962/  
A090926      City of Livermore,  
                  v.  
                  Damian Ltd., et al.  
Cause called and argued by Norman E. Matteoni, counsel for appellants, and Natalie W. West, counsel for respondent. Cause ordered submitted.
- A092016      Joel Drouet,  
                  v.  
                  Superior Court of the County of San Francisco;  
                  Jim Broustis, et al.  
Cause called and argued by Andrew M. Zacks, counsel for petitioner; Marc S. Janowitz and William Simpich, counsel for real party in interest; and Susan Luten, counsel for amicus curiae on behalf of petitioner. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Tuesday, January 9, 2001

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Strankman, P.J., Stein, J., and Swager, J.; B. Robbins, Deputy Clerk; and CHP Officer S. Miller, Bailiff.

A091134

Rose Bell, et al.

v.

Farmers Insurance Exchange.

Cause called and argued by Jon B. Eisenberg, counsel for appellant, and Steven G. Zieff, counsel for respondent. Cause ordered submitted.

Court adjourned.

Wednesday, January 10, 2001

Division One

**A090079 -- The People v. Donald Ray Cervelli.**

The judgment is affirmed. Marchiano, J. We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

**A088854 -- The People v. Jemecas Ketí Farr.**

The judgment is affirmed. Stein, J. We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

**A089202 -- General Motors Corp. v. City and County of San Francisco.**

The judgment is affirmed. Strankman, P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

**A089357 -- The People v. David Dewayne Hogue.**

The judgment is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A090937 -- In re Arshann M., a Person Coming Under the Juvenile Court Law.**

The order is affirmed. Strankman, P.J. We Concur: Stein, J., Marchiano, J. (Not for Publication.)

**A087257 -- The People v. Thomas James Mineo.**

The order is affirmed. Stein, J. We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

**A090692 -- In re Samara R., a Person Coming Under the Juvenile Court Law; The People v. Samara R.**

The order adjudicating appellant a ward of the court pursuant to Welfare and Institutions Code section 602 and placing her in foster care is affirmed. Stein, J. We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

Wednesday, January 10, 2001 (continued)

**A091867 -- The People v. Santos Ramirez Yepez.**

The order revoking and then reinstating probation under the terms prescribed is affirmed. Strankman, P.J. We Concur: Stein, J., Marchiano, J. (Not for Publication.)

Division Two

**A089432 -- Kenneth Asplund et al. v. Sife.**

The opinion in the above-entitled matter filed on December 11, 2000, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. (Cal. Rules of Court, rule 976(b)(1).) Kline, P.J.

**A089432 -- Kenneth Asplund et al. v. Sife.**

For the foregoing reasons, the judgment entered on the grant of summary judgment for SIFE is affirmed. Costs to respondent. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A093243 -- Klamath-Trinity Unified School District, et al. v. The Superior Court of Humboldt County; California School Employees Association, et al. R.P.I.**

By the Court: The petition for writ of mandate/prohibition/stay is denied. Kline, P.J.

**A090484 -- Loretta Macedo v. Bosio Revocable Trust, et al.**

The judgment is reversed. Costs on appeal are awarded to appellant. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Wednesday, January 10, 2001 (continued)

Division Four

**A088919 -- Douglas Sutherland et al. v. City of Fort Bragg.**

The Court: The request for publication of this court's December 19, 2000 opinion is granted and it is hereby ordered that said opinion be published in the Official Reports. Reardon, Acting P.J.

**A088919 -- Douglas Sutherland et al. v. City of Fort Bragg.**

The judgment of the superior court is affirmed. Sepulveda, J. We Concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

**A091237 -- The People v. Kristopher Daniel Coulombe.**

The Court: The request for publication of this court's December 29, 2000 opinion is granted and it is hereby ordered that said opinion be published in the Official Reports. Reardon, Acting P.J.

**A091237 -- The People v. Kristopher Daniel Coulombe.**

The judgment of dismissal is reversed with directions to reinstate the dismissed charges, deny the motion to suppress under section 1538.5, and proceed in a manner consistent with this opinion. Sepulveda, J. We Concur: Reardon, Acting P.J., Woolard, J.\* (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A091296 -- The People v. Roman Correa Velasquez.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

Wednesday, January 10, 2001 (continued)

Division Five

**A090866 -- In re Chambreoun S., a Person Coming Under the Juvenile Court Law.**

The order of the juvenile court is affirmed. Stevens, J. We Concur: Jones, P.J., Richman, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A089538 -- The People, acting by and through the Department of Transportation v. Nano Maldonado.**

The judgment is modified to strike paragraph 4a thereof. In all other respects the judgment is affirmed. Costs on appeal to Caltrans. Jones, P.J. We Concur: Stevens, J., Richman, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, January 11, 2001

Division One

**A089755 -- Mark D. Comings v. James R. Rose et al.**

The order disqualifying Ms. Springs is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

**A091650 -- The People v. Bruce Allen Fugate.**

The order revoking probation and imposing the previously stayed sentence is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

Division Two

**A093611 -- Aktiv Planning, Inc. v. The Superior Court of San Francisco County, Appellate Department; 1700 California Street LLC, R.P.I.**

By the Court: The petition for writ of mandate/stay is denied. Kline, P.J.

**A088609 -- The People v. Jermaine Robert Blair.**

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Thursday, January 11, 2001 (continued)

**A089445 -- The People v. Thomas Kravit.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J.  
(Not for Publication.)

**A093110 -- Phillip A. Minton v. The Superior Court of San Francisco;  
Kyphon, Inc., et al., R.P.I.**

By the Court: The petition for writ of mandate/prohibition/stay is denied.  
Kline, P.J.

Division Three

**A092969 -- Cecilia Q. v. The Superior Court; Social Services Agency et  
al. R.P.I.**

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI § 14, *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Accordingly, petitioner's request for a stay is also denied. Since the permanency planning hearing is set for January 12, 2001, our decision is immediately final as to this court. (Cal. Rules of Court, rule 24(d). Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J., (Not for Publication.)

Division Four

**A089578 -- The People v. Timothy Jon Trolinder.**

The judgment of conviction is affirmed. Woolard, J.\* We Concur:  
Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)



Thursday, January 11, 2001 (continued)

Division Five

**A091061 -- The People v. Henry Bozman.**

The order revoking probation is modified by striking the \$200 restitution fine. The judgment is affirmed. Richman, J.\* We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A093566 -- Sierra Club, et al. v. California Coastal Commission, City of Los Angeles, et al., R.P.I.**

Unless otherwise ordered, the stay will dissolve upon issuance of the remittitur in the appeal. (Cal. Rules of Court, rule 25.) If the appealing parties fail to prosecute their appeal in compliance with this order, respondent and/or real parties in interest may apply to the court for vacation of the stay. Jones, P.J.

**A090895 -- The People v. Jeremiah Rapp.**

The sentence imposed is ordered vacated, and the matter is remanded to the trial court for resentencing. Stevens, J. We Concur: Jones, P.J., Richman, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A091313 -- Timothy Whiten v. Robert A. Lindskog et al.**

The judgment is affirmed. Costs are awarded to respondents. Richman, J.\* We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, January 12, 2001

Division One

**A090285 -- The People v. Donald Tyrone Collier.**

The judgment is affirmed. Swager, J. We Concur: Strankman, P.J., Stein, J. (Not for Publication.)

**A089780 -- The People v. Nery Garcia Santos.**

The case is remanded for a determination of appellant's entitlement to custody credits. (Pen. Code, §§ 2900.5, 4019.) The judgment is otherwise affirmed. Strankman, P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

Division Two

**A088787 -- Tara Lee Bryan v. Bank of America et al.**

For the foregoing reasons, the motion to recall the remittitur is denied. Sanctions are awarded against James Braze, who shall pay respondents \$2,400 to compensate them for attorney fees incurred in connection with their opposition to the motion to recall the remittitur and their earlier motion to dismiss this appeal.

Respondents are also awarded costs on appeal. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Certified for Publication.)

Division Three

**A087146 -- Gualberto Medeiros v. Del Valle Business Park et al.**

Affirmed. Walker, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

Division Four

**A089627 -- Magid & Dodd v. Ralph T. Lachman.**

The judgment is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Friday, January 12, 2001 (continued)

Division Five

**A086336 -- In re Joseph F., a Person Coming Under the Juvenile Court Law.**

By the Court: Upon the court's own motion, IT IS ORDERED that the written opinion in this matter, filed on December 22, 2000, be modified as follows: (See order.) This modification does not effect a change in the judgment. Jones, P.J. (Certified for Partial Publication.)

Tuesday, January 16, 2001

Division One

**A088025 -- Grace V. Reairdon v. Transamerica Homefirst, Inc., et al.**

The judgment is affirmed. Costs are awarded to respondent. Swager, J.  
We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

Division Two

**A091122 -- Frederick C. Benson v. California Properties.**

The judgment is affirmed and Benson is awarded costs. Lambden, J. We  
Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A090209 -- Todd H. Meyers and Timothy A. Meyers v. Rhone-Poulenc  
Basic Chemicals Co. et al.**

The appeal is dismissed as moot. Each party to bear own costs on this  
appeal. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

**A089329 -- Todd H. Meyers and Timothy A. Meyers. v. Rhone-Poulenc  
Basic Chemicals Co. et al.**

The judgment is reversed and the matter remanded for further proceedings  
in accordance with the views expressed herein. Appellants to recover costs on  
appeal. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

**A088853 -- Todd H. Meyers and Timothy A. Meyers. v. Rhone-Poulenc  
Basic Chemicals Co. et al.**

The judgment is reversed and the matter remanded for further proceedings  
consistent with the views expressed herein. Appellant shall recover costs on  
appeal. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

**A083800 -- The People v. Donald Plyler.**

**A090477 -- In re Donald Plyler, on Habeas Corpus.**

The judgment is affirmed. The petition for writ of habeas corpus is denied.  
Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Tuesday, January 16, 2001 (continued)

**A086573 -- The People v. Jose Soltero.**

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Division Three

**A090047 -- Justin Economou v. Ross Harrity.**

In sum, we find no instructional error. Even if we presume error in giving the third sentence and the second paragraph of modified BAJI No. 7.54, we would not find the error prejudicial. The judgment is affirmed. Appellant to bear costs of appeal. McGuiness, P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

**A087017 -- The People v. Jose Fuentes.**

The murder conviction is reversed. The judgment is otherwise affirmed. Parrilli, J. We Concur: McGuiness, P.J., Walker, J. (Not for Publication.)

**A092082 -- City of Oakland v. Deloris Allen.**

The appeal from the preliminary injunction is dismissed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A088898 - Chad Talaska et al. v. Matthew McGlynn et al.**

The judgment is reversed. Costs are awarded top appellants. Parrilli, J. We Concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

**A089813 -- Tenderloin Housing Clinic, Inc. v. Astoria Hotel, Inc.**

The fee award is reversed. Appellant shall recover its costs. Parrilli, J. We Concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

Tuesday, January 16, 2001

Division Five

**A088913 -- The People v. Bobby Ray Barker.**

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Richman, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A091631 -- The People v. Ruben J. Cotton.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Richman, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A090168 -- The People v. Arthur Garcia.**

The gang enhancement is reversed, and the judgment of conviction is otherwise affirmed. Stevens, J. We Concur: Jones, P.J., Richman, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A091594 -- The People v. Emilio Ornelas Patino.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Richman, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, January 17, 2001

Division One

**A090469 -- Dorothea Dorman v. John McLain.**

The judgment is affirmed. Costs are awarded to respondent. Swager, J.  
We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

**A093603 -- J.M. Enterprises, Inc. et al. v. The Superior Court of Contra Costa County; Emma Prado, R.P.I.**

By the Court: The petition for writ of mandate/prohibition is denied.  
Kline, P.J.

**A092173 -- In re Regginea S., a Person Coming Under the Juvenile Court Law. The People v. Regginea S.**

The order adjudicating appellant a ward of the court pursuant to Welfare and Institutions Code section 602 and placing her on probation in her mother's home is affirmed. Ruvo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A093592 -- City of Vallejo v. The Superior Court of Solano County; William M., R.P.I.**

By the Court: The petition for writ of mandate/stay is denied. Kline, P.J.

**A093616 -- In re John Edward James III, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus and the motion to challenge the accuracy of the reporter's transcripts are denied. Petitioner should first seek relief, if any, in the trial court. Kline, P.J.

Wednesday, January 17, 2001 (continued)

Division Three

**A088568 -- Louis A. Gordon v. Don Horsley, San Mateo County Sheriff et al.**

The judgment is reversed. The trial court is directed to enter an order granting Deputy Gordon's petition for writ of mandate to the extent it seeks a writ directing the San Mateo County Civil Service Commission to hold a hearing on Gordon's appeal of the restrictions contained in the Sheriff's September 24, 1996 letter. The trial court may take any additional action that is consistent with the views expressed in this opinion. Each party shall bear its own costs on appeal. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Certified for Publication.)

**A090893 -- The People v. Shawn Lee Mullings.**

The judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Division Four

**A090378 -- The People v. Jacob Owen Miller.**

The trial court properly denied the motion to suppress evidence. Judgment affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)



## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Wednesday, January 17, 2001

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P.J., Haerle, J., Ruvolo J. and S. Graham, Deputy Clerk

A088723 Angela K. Benedict

v.

Danner Press, et al.

Cause called and argued by C. Royda Crosland, counsel for appellant and (telephonically) by Gail Kalinich, counsel for respondent. Cause ordered submitted.

A093039 Janean D.

v.

Superior Court, Humboldt County  
Social Services Agency

Cause called and argued telephonically by Patricia Lansdowne, counsel for petitioner and Tara Harvey, Deputy County Counsel, counsel for real party in interest. Cause ordered submitted.

A090729 The People

v.

Stevan Theodore Jensen

Cause called and argued by Joseph Chabot, Deputy State Public Defender, counsel for appellant and Ross Moody, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened in its courtroom at 1:30 p.m. Present: Kline, P. J., Haerle, J., Lambden, J., Ruvolo, J. and S. Graham, Deputy Clerk. Justice Kline announced at this point in the proceedings that Justice Haerle would not be participating in

the first case on calendar.

A091472      Kurt Dorsey  
                 v.  
                 Department of Motor Vehicles  
Cause called and argued by Frank DeBenedetto, counsel for appellant and Martin Goyette, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Kline left the bench.

A090111      Mesa/Boogie Europa, GmnH, et al.  
                 v.  
                 Mesa/Boogie, Ltd.  
Cause called and argued by Elizabeth A. Pollack, counsel for appellants and Karen O'Neil, counsel for respondent. Cause ordered submitted.

A087504      The People  
                 v.  
                 Elliott Scott Grizzle  
Cause called and argued by Eric Multhaup, counsel for appellant and Charles Kirk, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court recessed until Thursday, January 18, 2001 at 9:30 a.m.

Thursday, January 18, 2001

Division One

**A091371 -- Giuseppe Battistini v. Alan Banker.**

We conclude that the appellant failed to establish the requisite minimum contacts to justify assumption of personal jurisdiction over defendants, and thus the trial court properly granted the motion to quash service of the complaint. Accordingly, the judgment is affirmed. Swager, J. We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

Division Two

**A088644 -- Miller, et al. v. Weinstein Nutritional Products, et al.**

The judgment is reversed. The Millers are awarded their costs on appeal. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Three

**A082498 -- Ceridian Corporation v. Franchise Tax Board.**

Order Denying Petition For Rehearing and Modifying Opinion [No Change in Judgment] The Court: The petition for rehearing is denied. It is ordered that the opinion filed herein on December 21, 2000, be modified in the following particular: (See order.) The trial court's judgment invalidating the statute and awarding Ceridian the stipulated amount of tax refund is affirmed. McGuiness, P.J. (Certified for Publication.)

**A090229 -- The People v. Delton Demitrus Roberts.**

The judgment is affirmed. Parrilli, J. We Concur: Walker, J. Corrigan, Acting P.J., Walker, J. (Not for Publication.)

Thursday, January 18, 2001 (continued)

Division Four

**A091087 -- The People v. Kevin L. Hopkins.**

The judgment is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A091793 -- In re Timothy Y., a Person Coming Under the Juvenile Court Law.**

Judgment affirmed. Reardon, Acting P.J., We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

Friday, January 19, 2001

Division One`

**A093624 -- The People v. Charles Ray Bonnard.**

By the Court: The appeal is dismissed. Strankman, P.J.

Division Two

**A093039 -- In re Joyce H., a Person Coming Under the Juvenile Court Law.**

The petition for extraordinary relief is denied on the merits. (Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 893-895 [written opinion on petition for extraordinary relief precludes further challenge to orders by petitioner in any subsequent appeal].) Because the section 366.26. hearing is set for January 31, 2001, our opinion is final as to this court forthwith. (Cal. Rules of Court, rule 24(d).) Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A092499 -- The People v. Isabel Ortega Fitzpatrick.**

In sum, we find no arguable issues for review pursuant to *People v. Wende, supra*, 25 Cal.3d 436. The judgment is affirmed. McGuinness, P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

Division Four

**A089662 -- Warren E. Spieker et al. v. Pinniped Properties Atherton I et al.**

The purported appeals are therefore dismissed for lack of jurisdiction. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Monday, January 22, 2001

Division One

**A089962, A090926 -- City of Livermore v. Damian LTD. et al.**

The judgment is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

**A093623 -- Gene A. Cain et al. v. The Superior Court of Alameda County; KYM v. Jackson, et al.**

By the Court: The petition for writ of mandate/prohibition is denied. Kline, P.J.

**A093690 -- In re Roland Kramer, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

**A088300 -- Thomas McCormick et al. v. Travelers Insurance Company et al.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J. We Concur: Lambden, J. (Certified for Publication.)

Division Three

**A088441 -- Alma Jean Caldwell v. Dahyabbai Patel.**

The judgment is reversed. Costs to appellant. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

**A089893 -- The People v. Patrick David Madison et al.**

The judgment is affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

Monday, January 22, 2001 (continued)

Division Four

**A090422 -- In re Michael P., a Person Coming Under the Juvenile Court Law.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J. Woolard, J.\* (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A088895 -- Ralph Schmidt v. Frisco Cyble Parts.**

The judgment is reversed. Sepulveda, J. I concur: Hanlon, J.\* (See Dissenting Opinion by Reardon, J.) (Not for Publication.)

\*Retired Presiding Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, January 23, 2001

Division One

**A093073 -- In re GCC Richmond Work Cases.**

By the Court: Appellant having failed to file a brief after notice given under rule 17(a) of the California Rules of Court, the appeal is dismissed. Strankman, P.J.

**A089817 -- O.K. Investments, Inc. v. Marco Polo Garbarino et al.**

The judgment is affirmed. Brown and Garbarino have requested attorneys' fees on appeal. The Washington note and the Disengagement Agreement provide for attorneys' fees, with no restriction regarding fees on appeal. (9 Witkin, *supra*, Appeal, § 827, pp. 852-853.) Respondents are entitled to attorneys' fees on appeal. The matter is remanded to allow filing of an appropriate motion for fees in the trial court. (*Id.* at § 828, p. 853.) Marchiano, J. We Concur: Strankman, P.J., Stein, J. (Not for Publication.)

Division Two

**A091612 -- The People v. Ada Iris-Ann Elliott.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Division Three

**A092599 -- The People v. Marc Anthony Azevedo.**

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

**A087792 -- Republic Indemnity Company of America v. Arntz Construction Co.; Robert Jimenez, Intervenor.**

The judgment is reversed and the matter remanded with instructions to deny the motion for summary judgment. Parties to bear their own costs. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)



Tuesday, January 23, 2001 (continued)

**A087303 -- The People v. Oliver Williams.**

The judgment is modified to strike the one-year enhancement imposed pursuant to Penal Code section 667.5, subdivision (b), thereby reducing appellant's total sentence to 40 years to life. The trial court is directed to prepare an amended abstract of judgment and forward a certified copy to the Department of Corrections. As modified, the judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Walker, J. (Not for Publication.)

**A087922 -- The People v. Felton Juan Williams.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Division Four

**A090639 -- The People v. Paul Daniel Snyder.**

The judgment of conviction is ordered modified to reflect a \$200 fine pursuant to section 1202.4 and a \$200 fine pursuant to section 1202.45. The clerk of the superior court is directed to prepare and send a corrected abstract of judgment to the Director of the Department of Corrections. In all other respects, the judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Chiantelli, J.\* (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A084401, A086021 -- The Nippon Credit Bank, LTD., Los Angeles Agency v. 1333 North California Boulevard et al.**

The order denying the motion for judgment notwithstanding the verdict, and the order for a new trial on the amount of punitive damages only, are affirmed. The parties shall bear their own costs on appeal. Hanlon, J.\* We Concur: Reardon, Acting P.J., Sepulveda, J. (Certified for Partial Publication.)

Retired Presiding Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
**Tuesday, January 23, 2001**

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Reardon, Acting P.J., Sepulveda, J., and Kay, J.; Channing Hoo, Deputy Clerk; CHP Officer Jason Keirse, Bailiff.

- A092964      Itagia T.-S.  
v.  
Superior Court, San Francisco County  
Social Services Agency  
Cause called. Melanie Carver argued for petitioner Itagia T.-S. Jennifer Williams teleargued for real party in interest. Cause submitted.
- A089383      Valerie Nelson  
v.  
Ikon Office Solutions  
Cause calendared for 1:30 p.m.; cause called at 1:45 p.m. No appearance on behalf of appellant Nelson. Richard R. Gray argued for respondent. Cause submitted.
- A089471      Adolfo Bombarda  
v.  
Ocwen Federal Bank et al.  
Cause called. Steven H. Bovarnick argued for appellant Bombarda. Eric D. Houser argued for respondents. Cause submitted.

At this point, the Court reconstituted itself to include Reardon, Acting P.J., Sepulveda, J., and Chiantelli, Assigned Judge.

A088164

People

v.

Bambi Boyer

Cause called. Erik G. Babcock argued for appellant Boyer. Martin G. Kaye argued for respondent. Cause submitted.

The Court adjourned at 2:30 p.m.

Tuesday, January 23, 2001 (continued)

Division Five

**A089891 -- The People v. Mitchell Ward Bradley.**

Having concluded that *Wende* does apply, we have undertaken an independent review of the record and have found no arguable issues. The order for extension of commitment is affirmed. Richman, J.\* We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A085232 -- The People v. Byron Levingston.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Richman, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A090286 -- The People v. Mohammad Ismail Niaz.**

The order of the trial court granting the defendant's motion to dismiss is ordered vacated, and this matter is remanded to the trial court with instructions that such motion be denied. Stevens, J. We Concur: Jones, P.J., Richman, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, January 24, 2001

Division One

**A091152 -- In re Michael F., a Person Coming Under the Juvenile Court Law.**

The order of commitment is vacated and the matter remanded to the juvenile court to enter a new order in accordance with the calculations outlined above. Stein, J. We concur: Strankman, P. J., Marchiano, J. (Not for Publication.)

**A090980 -- In re Patrick R., a Person Coming Under the Juvenile Court Law.**

The order of commitment is vacated, and the matter is remanded to the juvenile court to enter a new order, committing appellant to CYA for a maximum term of five years and two months, based on a four-year base term for the extortion, one-third of an eighteen-month term for the 1998 attempted burglary, two months for the 1998 theft, two months for the 1998 vandalism and four months for the 1999 battery. Stein, Acting P.J. We concur: Swager, J. Marchiano, J. (Not for Publication.)

Division Two

**A086299 -- The People v. Robert H. Randle.**

The judgment is reversed and the case remanded to the trial court with directions to permit appellant to withdraw his plea of no contest if, within 45 days of the date of remittitur, he moves to so do. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Wednesday, January 24, 2001 (continued)

Division Four

**A090515 -- The People v. Michael J. Schwerdtfeger.**

The judgment is modified by striking the restitution award of \$1,005.07. The clerk of the superior court is directed to prepare an amended abstract of judgment reflecting this modification, and which also reflects that sentence on Count 2 is stayed pursuant to Penal Code section 654. The clerk shall forward a copy of the amended abstract to the Department of Corrections. As so modified, the judgment of conviction is affirmed. Kay, J. We concur: Reardon, Acting P.J., Chiantelli, J.\* (Not for Publication.)

\* Judge of the Superior Court for the City and County of San Francisco assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Five

**A092009 -- The People v. Victor Joseph Carrigan.**

The judgment is affirmed. Richman, J.\* We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A089443 -- The People v. Gary Cecil.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Richman, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A092451 -- Robert Sites et al. v. The Superior Court of San Francisco County; Daniel Rosenbledt, R.P.I.**

The order to show cause is discharged as improvidently issued. The stay of the eviction order is dissolved, and the petition is denied. Stevens, J. We Concur: Jones, P.J., Richman, J.\* (Certified for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, January 25, 2001

Division One

**A088102 -- Keke Kaste, a Minor, etc., et al. v. Mt. Diablo Unified School District et al.**

By the Court: It is ordered that the opinion filed herein on December 27, 2000, be modified in the following particulars: (See order.) This modification makes no change in the judgment. The request for publication is denied.  
Strankman, P. J.

Division Two

**A090082 -- John Hickey Brokerage v. City and County of San Francisco.**

The judgement is affirmed. Haerle, J. I concur: Lambden, J. (See Dissenting Opinion of Kline, P. J.) (Not for Publication.)

**A093260 -- In re Santana C. et al., Persons Coming Under the Juvenile Court Law.**

**A093259 -- Linda G. v. Superior Court of California County of Sonoma; Sonoma County Department of Human Services**

The petition is denied on the merits. (Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888; § 366.26, subd. (1)(1).) Given the nearness of the section 366.26 hearing set for March 7, 2001, our decision is final as to this court immediately. (Cal. Rules of Court, rule 24 (d).) Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

**A089675 -- The People v. Natalio Ceja.**

For all the foregoing reasons, the judgment of conviction is affirmed. The cause is remanded to the trial court for resentencing. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Thursday, January 25, 2001 (continued)

Division Two

**A090136 -- International Federation of Professional and Technical Engineers, Local 21, AFL-CIO v. Health Service Board of the City and County of San Francisco et al.**

The trial court's denial of the petition for writ of mandate is affirmed. Haerle, Acting P. J. We concur: Lambden, J. Ruvolo, J. (Not for Publication.)

**A091392 -- In re Tony J., a Person Coming Under the Juvenile Court Law.**

Our review of the record discloses that appellant was represented by counsel throughout the proceedings and that there was no constitutional irregularity in connection with appellant's plea of no contest to the first four counts. We also find that there was sufficient evidence to support the judge's conclusions with reference to the supplemental petition and that the law and facts supported the court's decision to remove this troubled young man from the custody of his parents and make him a ward of the court. The conditions of probation and disposition ordered by the court were reasonable and were supported by both the law and facts. Accordingly, there are no issues that require further briefing and the judgment and orders of the juvenile court are affirmed. Lambden, J. We concur: Haerle, Acting P. J., Ruvolo, J. (Not for Publication.)

**A089667 -- The People v. Kevan Michael Simpson.**

The judgment of conviction is reversed. Ruvolo, J. We concur: Haerle, Acting P. J., Lambden, J. (Not for Publication.)

**A091623 -- Maxine Webb v. Deidre Langley et al.**

Appellant Webb does not show good cause for relief or proffer a brief acceptable for filing. Accordingly, her motion for relief from default and permission to file a late brief is denied, and respondents' motion to dismiss is granted. The appeal is dismissed. Lambden, J. We concur: Kline, P. J., Haerle, J. (Not for Publication.)



Thursday, January 25, 2001 (continued)

Division Three

**A090391 -- In re Robert M., a Person Coming Under the Juvenile Court Law.**

The judgment is affirmed. Lambden, J. We concur: Kline, P. J., Ruvolo, J. (Not for Publication.)

**A089519 -- In re Marisol G., a Person Coming Under the Juvenile Court Law.**

The judgment is affirmed. McGuiness, P. J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

**A089164 -- The People v. Jose Luis Jimenez.**

The judgment is affirmed. Parrilli, J. We concur: Corrigan, Acting P. J., Walker, J. (Not for Publication.)

**A089588 -- Steven J. Landi v. Police Commission of the City and County of San Francisco.**

The trial court order granting Landi's petition for writ of mandate is reversed. The cause is remanded with directions to the trial court to enter an order denying the petition for writ of mandate in its entirety. Appellant shall recover its costs on appeal. Walker, J. We concur: McGuiness, P. J., Corrigan, J. (Not for Publication.)

**A091688 -- The People v. Clifton Edward McMillian, Jr.**

The conviction on count two is reversed; the judgment is otherwise affirmed. Corrigan, Acting P. J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

**A090505 -- The People v. Luke Zelman Merriman.**

The judgment is affirmed. Corrigan, J. We concur: McGuiness, P. J., Parrilli, J. (Not for Publication.)

Thursday, January 25, 2001 (continued)

**A090977, A091395 -- In re Brittany R., a Person Coming Under the Juvenile Court Law.**

Given appellant's failure to raise any legal issues regarding appeal No. A090977, we deem the appeal abandoned, and direct that it be dismissed. The dismissal of appeal No. A090977 does not affect consolidated appeal No. A091395. Walker, J. We concur: McGuiness, P. J., Parrilli, J. (Not for Publication.)

Division Four

**A089471 -- Adolfo R. Bombarda v. Ocwen Federal Bank, FSB et al.**

We affirm the judgment. Reardon, Acting P. J. We concur: Sepulveda, J., Kay, J. (Not for Publication.)

**A091077 -- The People v. Margarita Mercedes Montalvo.**

The judgment of conviction is affirmed. Kay, J. We concur: Reardon, Acting P. J., Sepulveda, J. (Not for Publication.)

**A091685 -- The People v. Alejandro Nolasco.**

The judgment is affirmed. Kay, J. We concur: Sepulveda, Acting P. J., Chiantelli, J.\* (Not for Publication.)

\* Judge of the Superior Court for the City and County of San Francisco assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A089585 -- The People v. Lance James Shafer.**

The judgment is affirmed. Reardon, Acting P. J. We concur: Sepulveda, J., Kay, J. (Not for Publication.)

Thursday, January 25, 2001 (continued)

**A084024, A085376, A085713 -- Spanish Speaking Citizens' Foundation, Inc., et al. v. Harry Low, as Commissioner, etc.; State Farm Mutual Automobile Insurance Company, Intervenors. Proposition 103 Enforcement Project v. Harry Low, as Commissioner, etc.; State Farm Mutual Automobile Insurance Company, Intervenors.**

The Court: The petition for rehearing filed by respondents on January 16, 2001, is denied. The opinion filed herein on December 29, 2000, is ordered modified as follows: (See order.) There is no change in the judgment. Reardon, Acting P. J. (Certified for Publication.)

Friday, January 26, 2001

Division One

**A090641 -- The People v. Jamaine Steven Gray.**

The order finding appellant in violation of his probation, revoking probation, and committing appellant to state prison is reversed. The matter is remanded to the sentencing court for appropriate disposition in light of this opinion. Marchiano, J. We concur: Strankman, P.J, Swager, J. (Not for Publication.)

**A091497 -- The People v. Stephan Lockett.**

The judgment is affirmed. Marchiano, J. We concur: Stein, Acting P. J., Swager, J. (Not for Publication.)

**A089809 -- In re Antoneya T., a Person Coming Under the Juvenile Court Law.**

The dispositional order and the order denying rehearing are affirmed. Marchiano, J. We concur: Strankman, P. J., Swager, J. (Not for Publication.)

Division Two

**A088401 -- The People v. Dawn Marie Judge.**

**A089397 -- In re Dawn Marie Judge on Habeas Corpus.**

The judgment is affirmed. The petition for writ of habeas corpus is denied. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

**A089598 -- The People v. Harold D. Hareland.**

The judgment is affirmed. Haerle, J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A093748 -- In re Roland Kramer, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

Friday, January 26, 2001 (continued)

Division Three

**A093727 -- In re Fredric Ferguson on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

**A091779 -- The People v. Shakidrea Danyle Deon Williams.**

The judgment is affirmed. Corrigan, J. We concur: McGuiness, P. J., Parrilli, J. (Not for Publication.)

Division Four

**A090011 -- In re the Marriage of Judith M. and Nelson Enns.**

The Court:\* The order is affirmed.

\*Reardon, Acting P. J., Kay, J., and Chiantelli, J. (Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.) (Not for Publication.)

**A091253 -- In re Wade J., a Person Coming Under the Juvenile Court Law.**

The dispositional order is affirmed. Kay, J. We concur: Sepulveda, Acting P. J., Chiantelli, J.\* (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Five

**A090462 -- In re Joseph E., a Person Coming Under the Juvenile Court Law.**

The orders appealed from are affirmed. Jones, P. J. We concur: Stevens, J., Richman, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, January 26, 2001 (continued)

Division Five (continued)

**A091343 -- Ellen Zeff et al. v. Board of Supervisors of San Mateo County; Thomas I. Mahon, R.P.I.**

The order of the trial court denying the petition is affirmed. Stevens, J. We concur: Jones, P. J., Richman, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, January 29, 2001

Division One

**A089400 & A090439 -- Arthur L. Lantz, Jr. v. American Home Assurance Company et al.**

The judgments subject to appeal are reversed. Costs are awarded to appellant. Swager, J. We Concur: Strankman, P.J., Stein, J. (Not for Publication.)

Division Two

**A087633 -- In re the Marriage of Mark Wasacz and Loretta Wasacz.**

We affirm the trial court's order. Respondent shall recover costs on appeal. Lambden, J. We concur: Haerle, Acting P. J., Ruvolo, J. (Not for Publication.)

**A088405 -- The People v. Kenneth Moore.**

This appeal presents a difference of opinion, not an abuse of discretion; and we affirm the judgment. Lambden, J. We concur: Kline, P. J., Haerle, J. (Not for Publication.)

Division Three

**A091715 -- Kevin Lucas v. Carlisle Insurance Company et al.**

The judgment is affirmed. Appellant to bear costs of appeal. McGuiness, P. J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

**A091801 -- In re Joshua N., a Person Coming Under the Juvenile Court Law.**

In sum, we find no arguable issues for review pursuant to *People v. Wende, supra*, 25 Cal.3d 436. The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Monday, January 29, 2001 (continued)

**A086348 -- C.J.A. Corporation v. Trans-Action Financial Corporation et al.**

Respondent made a clear and unequivocal election to proceed against appellants by way of judicial foreclosure. In requesting a modification of the judgment of judicial foreclosure, respondent sought to change its remedy against appellants by obtaining a money judgment. We hold that it was estopped from doing so because of its previous election. We further hold that the trial court exceeded its jurisdiction when it modified the judgment based upon issues that were never before it at trial. We reverse and remand to the trial court with directions that it vacate its order modifying the judgment and reinstate the prior judgement of judicial foreclosure. Appellant shall recover their costs on appeal. Walker, J. We Concur: McGuinness, P.J., Parrilli, J. (Certified for Publication.)

**A089027 -- Miracle Auto Center, et al. v. Pacific Specialty Insurance Company.**

The judgment is reversed and the matter remanded to the trial court for further proceedings. Parties to bear their own costs. Corrigan, J. We Concur: McGuinness, P.J., Walker, J. (Not for Publication.)

**A093041 -- Michael S. v. The Superior Court of Contra Costa County; Contra Costa County Department of Social Services.**

We hold that petitioner has waived any rights with respect to the court's claimed error. Nevertheless, we have independently reviewed the entire record and find substantial evidence to support the court's findings and orders. We therefore deny the writ on the merits. See Cal. Const., art. VI, § 14; Kowis v. Howard (1992) 3 Cal.4th 888. Accordingly, petitioner's request for a stay is also denied. Since the permanency planning hearing is set for February 6, 2001, our decision is immediately final as to this court. (Cal. Rules of Court, rule 24(d).) Walker, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)



Monday, January 29, 2001 (continued)

**A093042 -- Debra W. v. The Superior Court of contra Costa County; Contra Costa County Department of Social Services, R.P.I.**

From our independent review of the entire record we find substantial evidence to support the court's findings and orders. We further find the court did not abuse its discretion in suspending services on September, 2000. We therefore deny the writ on the merits. (See Cal.Const., art. VI, section 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Accordingly, petitioners request for stay is also denied. Since the permanency planning hearing is set for February 6, 2001, our decision is immediately final as to this court. (Cal.Rules of Court, rule 24(d).) Walker, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

**A089398 -- Patrick J. Murphy v. Bank of America NT&SA.**

The judgment is affirmed with costs to Bank. Bank is entitled to its reasonable attorney fees on appeal in an amount to be determined by the trial court. Hanlon, P.J.\* We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

\*Retired Presiding Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Five

**A089367 -- The People v. Ernie Heairet.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Richman, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, January 30, 2001

Division One

**A090105 -- In re Jonathan C., a Person Coming Under the Juvenile Court Law.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

**A090266 -- In re Francisco D., a Person Coming Under the Juvenile Court Law.**

The order is affirmed. Strankman, P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

**A090623 -- The People v. Aram Walker.**

The judgment is affirmed. Stein, J. We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

Division Two

**A089451 -- The People v. Barbara Ann Brown.**

The case is remanded to the trial court with directions to strike the one-year prior prison term enhancement deriving from appellant's 1993 first degree burglary conviction. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A091728 -- The People v. Kathryn Signa Jordan.**

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A076593 -- Linda Hamilton v. Asbestos Corporation, Ltd.**

The judgment is affirmed in all respects except for the amount of damages, which is reversed. The matter is remanded with directions to recalculate damages in accordance with part IV of this opinion and Proposition 51. Each side shall bear its own costs on appeal. Lambden, J. We concur: Kline, P. J., Haerle, J. (Not for Publication.)

Tuesday, January 30, 2001 (continued)

Division Two (continued)

**A092199 -- The People v. Thomas Walter Biber.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J.  
(Not for Publication.)

**A090512 -- Jesse J. Brown v. State Personnel Board; Department of General Services, R.P.I.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J.  
(Not for Publication.)

**A093780 -- In re Michael Reed Dorrough, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

**A093730 -- Industrial Underwriters Insurance Company v. The Superior Court of Contra Costa County; Albert D. Seeno Construction Company, R.P.I.**

By the Court: The petition for writ of mandate is denied as untimely.  
(Code of Civ. Proc., § 437c subd.(1); *Sturm Ruger & Co. v. Superior Court* (1985) 164 Cal.App.3d 579; *Schmidt v. Superior Court* (1989) 207 Cal.App.3d 56; *Eldridge v. Superior Court* (1989) 208 Cal.App.3d 1350.) Kline, P.J.

**A088757 -- Anne Meko v. Pacific Hotel Management et al.**

For the foregoing reasons, the judgment is affirmed. Costs on appeal to respondent. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

**A089771 -- Jose Romero v. Michael J. Monte et al.**

Summary adjudication of all causes of action other than the cause of action alleging negligence was proper. The judgment is reversed as to the negligence cause of action. Costs to appellant. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Tuesday, January 30, 2001 (continued)

Division Three

**A089669 -- In re Robert J., a Person Coming Under the Juvenile Court Law.**

Affirmed. Walker, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A088991 -- Robert M. Brunson, Jr. v. Andre Boudin Bakeries, Inc.**

The summary judgment is affirmed. Woolard, J.\* We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Four

**A087294 -- Grace Brothers, LTD. v. DNAP Holding Corporation et al.**

The judgment is reversed. Plaintiff shall recover its costs on appeal. Sepulveda, J. We Concur: Reardon, Acting P.J., Woolard, J.\* (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A089737 -- Michael Kinney v. CSB Construction, Inc.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Woolard, J.\* (Certified for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A089383 -- Valerie Nelson v. IKON Office Solutions.**

The summary judgment is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Tuesday, January 30, 2001 (continued)

**A089124 -- Les Strickler et al. v. Leonard B. Campagna et al.**

The order is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Hanlon, P.J. (Not for Publication.)

**A089612 -- The People v. Kevin Shumake.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Chiantelli, J.\* (Not for Publication.)

\*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A092964 -- In re A.T., a Person Coming Under the Juvenile Court Law.**

The petition is denied on the merits. The stay is lifted effective immediately. The matter is remanded to the trial court to set and conduct a 366.26 hearing. This opinion is final as to this court forthwith. (Cal. Rules of Court, rule 24.) Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

Division Five

**A084426 -- The People v. Aldridge Currie.**

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Richman, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A089832 -- In re Golden Eagle Insurance Company.**

**A089872 -- Harry W. Low, as Insurance Commissioner, etc. v. Golden Eagle Insurance Company; Peterson/Chase General Engineering Construction, Inc.**

The orders are affirmed. Stevens, J. We Concur: Jones, P.J., Richman, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, January 30, 2001 (continued)

**A089749 -- The People v. Health Laboratories of North America, Inc.  
et al.**

The order is affirmed. Jones, P.J. We Concur: Stevens, J., Richman, J.\*  
(Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief  
Justice pursuant to article VI, section 6 of the California Constitution.

**A092451 -- Robert Sites et al. v. The Superior Court of San Francisco;  
Daniel Rosenbledt, R.P.I.**

Order Modifying Opinion. The opinion filed herein on January 24, 2001, is  
ordered modified as follows: (See order.) The petition is denied, and the stay of  
the eviction order is ordered dissolved upon (continued) the remittitur. There is no  
change in the judgment. Jones, P.J.

Wednesday, January 31, 2001

Division Two

**A093793 -- In re Danny Lamont Hamilton, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

**A093794 -- In re Roland Kramer, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

**A090484 -- Loretta Macedo v. Bosio Revocable Trust, et al.**

By the Court: The written opinion which was filed on January 10, 2001, has now been certified for partial publication pursuant to rules 976(b) and 976.1 of the California Rules of Court, and it is therefore ordered that the opinion be published in the Official Reports with the exception of part III A. Kline, P.J.

**A090484 -- Loretta Macedo v. Bosio Revocable Trust, et al.**

The judgment is reversed. Costs on appeal are awarded to appellant. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Certified for Partial Publication.)

**A093786 -- Wesley Owens v. The Superior Court of Alameda County; The People of the State of California, R.P.I.**

By the Court: The petition for writ of mandate is denied. Petitioner must first seek relief, if any, in the superior court. Kline, P.J.

**A093788 -- In re Joseph H. Sherman, on Habeas Corpus.**

By the Court: The petitioner for writ of habeas corpus is denied. Kline, P.J.

**A087023 -- The People v. Rodney Baylis.**

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

Wednesday, January 31, 2001 (continued)

Division Three

**A090039 -- Levitz Furniture Company of the Pacific, Inc. v. Wingtip Communications, Inc.**

The judgment is reversed. Wingtip to bear costs of appeal. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Certified for Publication.)

**A088781 -- Barbara Sierra et al. v. Great American Insurance Company et al.**

The judgment is affirmed. The parties shall bear their own costs. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A090878 -- The People v. Russell James Mannex.**

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A087200 -- The People v. Ricky Smith.**

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Walker, J. (Not for Publication.)

Division Four

**A087800 -- Chateau Calistoga Mobilehome Park v. City of Calistoga.**

The judgment is affirmed. Hanlon, P.J.\* We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

\*Retired Presiding Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.



Wednesday, January 31, 2001 (continued)

Division Five

**A090431 -- The People v. Kristoff Madden Gross.**

The judgment is affirmed. Richman, J.\* We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A088929 -- The People v. Valentini Mataele**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Richman, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A090060 -- In re Reverse Mortgage Cases.**

The order of the trial court is affirmed. Richman, J.\* We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A089902 -- The People v. Humberto Paul Torres.**

The judgment is affirmed. Richman, J.\* We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, January 31, 2001 (continued)

Division Five

**A091327 -- John R. Ulrich, Jr., M.D. v. City and County of San Francisco.**

The order of the trial court is reversed to the extent it decided issues related to compliance with the claim requirements of the CTCA. That part of the order is void. (See *Ruiz v. Ruiz* (1980) 104 Cal.App.3d 374, 379.) The order is affirmed to the extent it denied relief from the claim requirements of the CTCA. The parties shall bear their own costs on appeal. Jones, P.J. We Concur: Stevens, J., Richman, J.\* (Not for Publication.)

\*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.